

67,064-001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re application: Jyawook, et al.

Serial No.: 10,077,427

Filed: 02/15/2002

Group Art Unit: 1771

Examiner: Vo, Hai

For: THERMOPLASTIC VEHICLE WEATHER STRIPPING

REQUEST FOR RECONSIDERATION

Mail Stop AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is a further response to the Final Office Action mailed on October 23, 2003.

Applicant respectfully submits evidence of commercial success indicating that the claimed invention cannot be considered obvious. The attached Declaration of Sam Jyawook provides evidence of commercial success of the claimed invention and, therefore, the rejection under 35 U.S.C. §103 based upon *Hendrix* combined with *Chen, et al.* should be withdrawn.

As indicated in the Declaration, the assignee of this application was recently awarded a purchase order from DaimlerChrysler that will result in nearly \$800,000 per year in sales. Such commercial success of the claimed invention is enough to overcome any *prima facie* case of obviousness that the Examiner contends is established by the

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proposed combination of *Hendrix* and *Chen, et al.* Applicant still contends that there is no *prima facie* case of obviousness because it is not possible to use the *Hendrix* arrangement with a microcellular material. The proposed combination does not provide a workable result and there is no *prima facie* case of obviousness. Even if the Examiner were correct and there were sufficient motivation to combine the references, the evidence of commercial success submitted now is sufficient to rebut and overcome that so that the claims cannot be considered obvious.

Applicant respectfully submits that this submission is timely because the purchase order has only recently been awarded to JYCO. The Declaration based upon the purchase order could not have been submitted before the purchase order was issued in February 2004, which is after the mailing date of the final office action. Therefore, even though the Declaration of Sam Jyawook was not submitted prior to a final office action, it is respectfully submitted to be timely. Applicant respectfully requests reconsideration of this application in light of the evidence of commercial success submitted herewith.

Applicant respectfully submits that this case is in condition for allowance.

Respectfully submitted,

CARLSON, GASKEY & OLDS

By: 

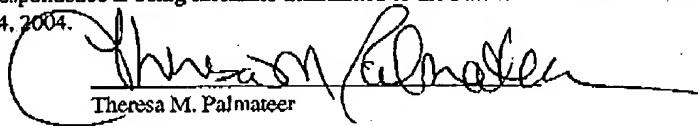
David J. Gaskey
Registration No. 37,139
400 W. Maple Rd., Ste. 350
Birmingham, MI 48009
(248) 988-8360

Dated: March 24, 2004

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CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 872-9306) on March 24, 2004.


Theresa M. Palmateer

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